

via the E-DCH. The happy bit is not set (i.e., happy condition) if the user equipment transmits uplink data via the E-DCH without utilizing the maximum amount of uplink resources, for scheduled uplink data, as allowed by scheduling grants. The Applicants' claimed subject matter supports granting additional communication resources to a user equipment only if the user equipment is utilizing the maximum uplink resources granted to it by a serving cell (see specification page 18, lines 26-31). Additionally, the claimed subject matter supports a serving cell's ability to determine whether a non-serving cell, within the user equipment's active set, has requested the user equipment to reduce its uplink resource utilization during a soft handover (see page 18, line 31, through page 19, line 2). (References herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

3GPP 1 contains only one section relating to the happy bit on the E-DPCCH (see 3GPP 1, page 25, § 9.3.1.2). 3GPP 1's teaching is essentially identical to what is disclosed on page 16, lines 5-9, of the present Applicants' specification.

Applicants' claim 26 defines a condition for not setting the happy bit (i.e., a happy condition). According to this claimed subject matter, a user equipment indicates a happy condition if it transmits uplink data via the E-DCH without utilizing the maximum amount of uplink resources for scheduling uplink data as allowed by scheduling grants. A set of conditions to indicate an unhappy condition is presented in claim 32.

With respect to the independent claims, the Final Rejection proposes that the condition for not setting the happy bit (i.e., to indicate a happy condition) is disclosed in the first sentence of section 9.3.1.2 of 3GPP 1. Therein it is stated:

*"Now one bit of the E-DPCCH is used to indicate whether or not the UE is satisfied ("Happy") with the current Serving Grant."*

In contrast to the position taken by the Final Rejection, this sentence defines the meaning of the happy bit, but does not relate to the definition of the condition(s) for setting the happy bit. In fact, the condition(s) for indicating "happy" or "unhappy" are defined in the remaining portion of section 9.3.1.2 of 3GPP 1.

In this connection, the Final Rejection's statements with respect to claim 32 seem to more clearly reflect the Final Rejection's mistaken understanding of 3GPP 1. More specifically, the Final Rejection proposes that a user equipment has no reason to be unhappy if the user equipment is not utilizing the maximum uplink resources set by scheduling grants for scheduled uplink data transmission.

However, as apparent from the criteria defined in 3GPP 1 and 3GPP 2 indicating an unhappy condition (see also the related section in the introduction of the present application), several situations exist where the user equipment is not using the maximum uplink resources set by the scheduling grants but nevertheless indicates an unhappy condition.

Accordingly, the Applicants submit that 3GPP 1 does not anticipate the subject matter defined by claim 26. Independent claims 38 and 45 similarly recite the above-mentioned subject matter distinguishing method claim 26 from the applied references, but claim 38 does so with respect to an apparatus and claim 45 does so with respect to a computer readable medium. Therefore, allowance of claims 26, 38, and 45 and all claims dependent therefrom is deemed to be warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

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